

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 8

January 25, 2017

SUMMARY OF BILL: Excludes employees of the executive, legislative, or judicial branch of the state or any political subdivision of the state from being eligible for pretrial diversion for any misdemeanor committed in the employee's official capacity.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Tennessee Code Annotated § 40-15-105 allows any "qualified defendant" to receive pretrial diversion, also called suspended prosecution, for certain misdemeanor offenses.
- Tennessee Code Annotated § 40-15-105 defines "qualified defendant" for the purposes of receiving pretrial diversion. An elected or appointed person of the executive, legislative, or judicial branch does not meet the definition of a qualified defendant if the official commits a misdemeanor in the official's official capacity.
- The proposed legislation adds employees of the executive, legislative, or judicial branch to this definition.
- Because pretrial diversion may only be provided for misdemeanor offenses, the proposed legislation will not impact state incarceration costs.
- Further, denying these employees pretrial diversion for these offenses does not preclude them from qualifying for judicial diversion, also called probation. Given the possibility that an employee defendant could receive probation in lieu of pretrial diversion, any decrease in fee revenue that would occur pursuant to Tenn. Code Ann. § 40-15-105(a)(1)(A) because the defendant no longer receives pretrial diversion, is assumed to be offset by increases in fee revenue that would occur pursuant to Tenn. Code Ann. § 40-35-313(a)(1)(A) as a condition of the defendant receiving probation. Therefore, any net change in state or local fee revenue is estimated to be not significant.
- It is assumed that the proposed legislation will not increase the time served by the average public employee convicted of a misdemeanor committed in the employee's official capacity. The proposed legislation will not significantly increase local incarceration costs.

- The proposed legislation does not create any new misdemeanor cases, but merely affects disposition and sentencing of certain cases. It is assumed that the proposed legislation will not significantly impact the caseloads of the courts, district attorneys, or public defenders.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm